

of fund, carryovers to surplus or other fund, and transfers from fund.

1939—Subsec. (b). Act June 20, 1939, §14, substituted “. Such advance shall be repaid from the fund at” for “. including personal services in the District of”.

Subsec. (c). Act June 20, 1939, §15, substituted “. including personal services in the District of” for “. Such advance shall be repaid from the fund at”.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable with respect to compensation paid in months beginning after Sept. 30, 1988, see section 7103(c) of Pub. L. 100-647, set out as a note under section 358 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-92 effective with respect to compensation paid for services rendered after Dec. 31, 1975, see section 2 of Pub. L. 94-92, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-927 effective Sept. 6, 1958, except as otherwise indicated, see section 207(c) of Pub. L. 85-927, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1940 AMENDMENT

For effective date of amendment by act Oct. 10, 1940, see section 1 of act Oct. 10, 1940, see note set out under section 351 of this title.

#### TRANSFER OF FUNCTIONS

“Director of the Office of Personnel Management” substituted for “Civil Service Commission” in subsec. (c), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351, 358, 360, 362 of this title.

### § 362. Duties and powers of Board

#### (a) Witnesses; subpoenas, service, fees, etc.

For the purpose of any investigation or other proceeding relative to the determination of any right to benefits, or relative to any other matter within its jurisdiction under this chapter, the Board shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, documentary or otherwise, that relates to any matter under investigation or in question, before the Board or any member, employee, or representative thereof. Any member of the Board or any of its employees or representatives designated by it may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and production of evidence may be required from any place in the United States or any Territory or possession thereof at any designated place of hearing. All subpoenas may be served and returned by anyone

authorized by the Board in the same manner as is now provided by law for the service and return by United States marshals of subpoenas in suits in equity. Such service may also be made by registered mail or by certified mail and in such case the return post-office receipt shall be proof of service. Witnesses summoned in accordance with this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

#### (b) Enforcement of subpoenas by courts; contempt; service of orders, writs, or processes

In case of contumacy by, or refusal to obey a subpoena lawfully issued to, any person, the Board may invoke the aid of the district court of the United States or the United States courts of any Territory or possession, where such person is found or resides or is otherwise subject to service of process, or the United States District Court for the District of Columbia if the investigation or proceeding is being carried on in the District of Columbia, or the United States District Court for the Northern District of Illinois, if the investigation or proceeding is being carried on in the Northern District of Illinois, in requiring the attendance and testimony of witnesses and the production of evidence. Any such court shall issue an order requiring such person to appear before the Board or its specified employee or representative at the place specified in the subpoena of the Board, whether within or without the judicial district of the court, there to produce evidence, if so ordered, or there to give testimony concerning the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. All orders, writs, and processes in any such proceeding may be served in the judicial district of the district court issuing such order, writ, or process, except that the orders, writs, and processes of the United States District Court for the District of Columbia or of the United States District Court for the Northern District of Illinois in such proceedings may run and be served anywhere in the United States.

(c) Repealed. Pub. L. 91-452, title II, § 239, Oct. 15, 1970, 84 Stat. 930

#### (d) Information as confidential

Information obtained by the Board in connection with the administration of this chapter shall not be revealed or open to inspection nor be published in any manner revealing an employee's identity: *Provided, however,* That (i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this chapter; (ii) the Board may disclose such information in cases in which the Board finds that such disclosure is clearly in furtherance of the interest of the employee or his estate; (iii) any claimant of benefits under this chapter shall, upon his request, be supplied with information from the Board's records pertaining to his claim; and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim

for benefits or to full and fair participation by such employer in an appeal, hearing, or other proceeding relative to the claim pursuant to section 355 of this title. Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance administration fund established pursuant to section 361(a) of this title;

**(e) Certification of claims; authorization of employee to make payments; bond**

The Board shall provide for the certification of claims for benefits and refunds and may arrange total or partial settlements at such times and in such manner as may appear to the Board to be expedient. The Board shall designate and authorize one or more of its employees to sign vouchers for the payment of benefits and refunds under this chapter. Each such employee shall give bond, in form and amount fixed by the Board, conditioned upon the faithful performance of his duties. The premiums due on such bonds shall be paid from the fund and deemed to be a part of the expenses of administering this chapter.

**(f) Cooperation with other agencies administering unemployment or sickness compensation laws; agreements**

The Board may cooperate with or enter into agreement with the appropriate agencies charged with the administration of State, Territorial, Federal, or foreign unemployment-compensation or sickness laws or employment offices, with respect to investigations, the exchange of information and services, the establishment, maintenance, and use of free employment service facilities, and such other matters as the Board deems expedient in connection with the administration of this chapter, and may compensate any such agency for services or facilities supplied to the Board in connection with the administration of this chapter. The Board may enter also into agreements with any such agency, pursuant to which any unemployment or sickness benefits provided for by this chapter or any other unemployment-compensation or sickness law, may be paid through a single agency to persons who have, during the period on the basis of which eligibility for and duration of benefits is determined under the law administered by such agency or under this chapter, or both, performed services covered by one or more of such laws, or performed services which constitute employment as defined in this chapter: *Provided*, That the Board finds that any such agreement is fair and reasonable as to all affected interests.

**(g) Benefits also subject to a State law; mutual reimbursement**

In determining whether an employee has qualified for benefits in accordance with section 353 of this title, and in determining the amount of benefits to be paid to such employee in accordance with section 352(a) and (c) of this title, the Board is authorized to consider as employment (and compensation therefor) services for

hire other than employment (and remuneration therefor) if such services for hire are subject to an unemployment or sickness compensation law of any State, provided that such State has agreed to reimburse the United States such portion of the benefits to be paid upon such basis to such employee as the Board deems equitable. Any amounts collected pursuant to this paragraph shall be credited to the account.

If a State, in determining whether an employee is eligible for unemployment or sickness benefits under an unemployment or sickness compensation law of such State, and in determining the amount of unemployment or sickness benefits to be paid to such employee pursuant to such unemployment or sickness compensation law, considers as services for hire (and remuneration therefor) included within the provisions of such unemployment or sickness compensation law, employment (and compensation therefor), the Board is authorized to reimburse such State such portion of such unemployment or sickness benefits as the Board deems equitable; such reimbursements shall be paid from the account, and are included within the meaning of the word "benefits" as used in this chapter.

**(h) Assistance from employers and labor organizations; compensation**

The Board may enter into agreements or arrangements with employers, organizations of employers, and railway-labor organizations which are duly organized in accordance with the provisions of the Railway Labor Act [45 U.S.C. 151 et seq.], for securing the performance of services or the use of facilities in connection with the administration of this chapter, and may compensate any such employer or organization therefor upon such reasonable basis as the Board shall prescribe, but not to exceed the additional expense incurred by such employer or organization by reason of the performance of such services or making available the use of such facilities pursuant to such agreements or arrangements. Such employers and organizations, and persons employed by either of them, shall not be subject to section 209 of title 18.

**(i) Free employment offices; registration of unemployed; statements of sickness; reemployment**

The Board may establish, maintain, and operate free employment offices, and may designate as free employment offices facilities maintained by (i) a railway labor organization which is duly authorized and designated to represent employees in accordance with the Railway Labor Act [45 U.S.C. 151 et seq.], or (ii) any other labor organization which has been or may be organized in accordance with the provisions of the Railway Labor Act, or (iii) one or more employers, or (iv) an organization of employers, or (v) a group of such employers and labor organizations, or (vi) a State, Territorial, foreign, or the Federal Government. The Board may also enter into agreements or arrangements with one or more employers or railway labor organizations organized in accordance with the provisions of the Railway Labor Act, pursuant to which notice of the availability of work and the rights of employees with respect to such work under

agreements between such employers and railway labor organizations may be filed with employment offices and pursuant to which employees registered with employment offices may be referred to such work.

The Board shall prescribe a procedure for registration of unemployed employees at employment offices. Such procedure for registration shall be prescribed with a view to such registration affording substantial evidence of the days of unemployment of the employees who register. The Board may, when such registration is made personally by an employee, accept such registration as initial proof of unemployment sufficient to certify for payment a claim for benefits.

The Board shall provide a form or forms for statements of sickness and a procedure for the execution and filing thereof. Such forms and procedure shall be designated with a view to having such statements provide substantial evidence of the days of sickness of the employee. Such statements may be executed by any doctor (authorized to practice in the State or foreign jurisdiction in which he practices his profession) or any officer or supervisory employee of a hospital, clinic, group health association, or other similar organization, who is qualified under such regulations as the Board may prescribe to execute such statements. The Board shall issue regulations for the qualification of such persons to execute such statements. When so executed by any such person, or, in the discretion of the Board, by others designated by the Board individually or by groups, they may be accepted as initial proof of days of sickness sufficient to certify for payment a claim for benefits.

The regulations of the Board concerning registration at employment offices by unemployed persons may provide for group registration and reporting, through employers, and need not be uniform with respect to different classes of employees.

The operation of any employment facility operated by the Board shall be directed primarily toward the reemployment of employees who have theretofore been substantially employed by employers.

**(j) Advisory councils; members' remuneration**

The Board may appoint national or local advisory councils composed of equal numbers of representatives of employers, representatives of employees, and persons representing the general public, for the purpose of discussing problems in connection with the administration of this chapter and aiding the Board in formulating policies. The members of such councils shall serve without remuneration, but shall be reimbursed for any necessary traveling and subsistence expenses or on a per diem basis in lieu of subsistence expenses.

**(k) Reduction of unemployment; training and reemployment of unemployed employees, etc.**

The Board, with the advice and aid of any advisory council appointed by it, shall take appropriate steps to reduce and prevent unemployment and loss of earnings; to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance; to promote the reemployment of unemployed employees; and to these ends to carry

on and publish the results of investigations and research studies.

**(l) Necessary and incidental powers; employees of Board, employment, remuneration, civil-service laws, registration of unemployed, and detail**

In addition to the powers and duties expressly provided, the Board shall have and exercise all the powers and duties necessary to administer or incidental to administering this chapter, and in connection therewith shall have such of the powers, duties, and remedies provided in subdivisions (5), (6), and (9) of section 7(b) of the Railroad Retirement Act of 1974 [45 U.S.C. 231f(b)] with respect to the administration of the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], as are not inconsistent with the express provisions of this chapter. A person in the employ of the Board under section 205 of the Act of Congress approved June 24, 1937 (50 Stat. 307), shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Director of the Office of Personnel Management, he shall pass such noncompetitive tests of fitness as the Director of the Office of Personnel Management may prescribe. A person in the employ of the Board on June 30, 1939, and on June 30, 1940, and who has had experience in railroad service, shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Director of the Office of Personnel Management, he shall pass such noncompetitive tests of fitness for the position for which the Board recommends him as the Director of the Office of Personnel Management may prescribe.

The Board may employ such persons and provide for their remuneration and expenses, as may be necessary for the proper administration of this chapter. Such persons shall be employed and their remuneration prescribed in accordance with the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5: *Provided*, That all positions to which such persons are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom: *Provided*, That in the employment of such persons the Board shall give preference, as between applicants attaining the same grades, to persons who have had experience in railroad service, and notwithstanding any other provisions of law, rules, or regulations, no other preference shall be given or recognized: *And provided further*, That certification by the Director of the Office of Personnel Management of persons for appointment to any positions at minimum salaries of \$4,600 per annum, or less, shall, if the Board so requests, be upon the basis of competitive examinations, written, oral, or both, as the Board may request: *And provided further*, That, for the purpose of registering unemployed employees who reside in areas in which no employer facilities are located, or in which no employer will make facilities available for the registration of such employees, the Board may, without regard to civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, appoint persons to accept, in such areas, registration of such employees and per-

form services incidental thereto and may compensate such persons on a piece-rate basis to be determined by the Board. Notwithstanding any other provision of law, the Board may detail employees from stations outside the District of Columbia to other stations outside the District of Columbia or to service in the District of Columbia, and may detail employees in the District of Columbia to service outside the District of Columbia: *Provided*, That all details hereunder shall be made by specific order and in no case for a period of time exceeding one hundred and twenty days. Details so made may, on expiration, be renewed from time to time by order of the Board, in each particular case, for periods not exceeding one hundred and twenty days.

**(m) Delegation of powers**

The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by this chapter, excluding only the power to prescribe rules and regulations.

**(n) Sickness benefits; examinations; information and reports; contracts and expenses for examinations**

Any employee claiming, entitled to, or receiving sickness benefits under this chapter may be required to take such examination, physical, medical, mental, or otherwise, in such manner and at such times and by such qualified individuals, including medical officers or employees of the United States or a State, as the Board may prescribe. The place or places of examination shall be reasonably convenient for the employee. No sickness benefits shall be payable under this chapter with respect to any period during which the employee unreasonably refuses to take or willfully obstructs an examination as prescribed by the Board.

Any doctor who renders any attendance, treatment, attention, or care, or performs any examination with respect to a sickness of an employee, upon which a claim or right to benefits under this chapter is based, shall furnish the Board, in such manner and form and at such times as the Board by regulations may prescribe, information and reports relative thereto and to the condition of the employee. An application for sickness benefits under this chapter shall contain a waiver of any doctor-patient privilege that the employee may have with respect to any sickness period upon which such application is based: *Provided*, That such information shall not be disclosed by the Board except in a proceeding relating to any claim for benefits by the employee under this chapter.

The Board may enter into agreements or arrangements with doctors, hospitals, clinics, or other persons for securing the examination, physical, medical, mental, or otherwise, of employees claiming, entitled to, or receiving sickness benefits under this chapter and the performance of services or the use of facilities in connection with the execution of statements of sickness. The Board may compensate any such doctors, hospitals, clinics, or other persons upon such reasonable basis as the Board shall prescribe. Such doctors, hospitals, clinics, or other persons and persons employed by any of them shall not be subject to section 209 of title 18. In

the event that the Board pays for the physical or mental examination of an employee or for the execution of a statement of sickness and such employee's claim for benefits is based upon such examination or statement, the Board shall deduct from any sickness benefits payable to the employee pursuant to such claim such amount as, in the judgment of the Board, is a fair and reasonable charge for such examination or execution of such statement.

**(o) Liability of third party for sickness; reimbursement of Board**

Benefits payable to an employee with respect to days of sickness shall be payable regardless of the liability of any person to pay damages for such infirmity. The Board shall be entitled to reimbursement from any sum or damages paid or payable to such employee or other person through suit, compromise, settlement, judgment, or otherwise on account of any liability (other than a liability under a health, sickness, accident, or similar insurance policy) based upon such infirmity, to the extent that it will have paid or will pay benefits for days of sickness resulting from such infirmity. Upon notice to the person against whom such right or claim exists or is asserted, the Board shall have a lien upon such right or claim, any judgment obtained thereunder, and any sum or damages paid under such right or claim, to the extent of the amount to which the Board is entitled by way of reimbursement.

**(p) Disqualification to execute statements of sickness or receive fees**

The Board may, after hearing, disqualify any person from executing statements of sickness who, the Board finds, (i) will have solicited, or will have employed another to solicit, for himself or for another the execution of any such statement, or (ii) will have made false or misleading statements to the Board, to any employer, or to any employee, in connection with the awarding of any benefits under this chapter, or (iii) will have failed to submit medical reports and records required by the Board under this chapter, or will have failed to submit any other reports, records, or information required by the Board in connection with the administration of this chapter or any other Act heretofore or hereafter administered by the Board, or (iv) will have engaged in any malpractice or other professional misconduct. No fees or charges of any kind shall accrue to any such person from the Board after his disqualification.

**(q) Investigations and research with respect to accidents and disabilities**

The Board shall engage in and conduct research projects, investigations, and studies with respect to the cause, care, and prevention of, and benefits for, accidents and disabilities and other subjects deemed by the Board to be related thereto, and shall recommend legislation deemed advisable in the light of such research projects, investigations, and studies.

**(r) Duty of Board to make certain computations**

**(1) Compensation base**

On or before December 1, 1988, and on or before December 1 of each year thereafter, the Board shall compute—

(A) in accordance with section 351(i) of this title, the monthly compensation base which shall be applicable with respect to months in the next succeeding calendar year; and

(B) the amounts described in section 351(k) of this title, section 352(c) of this title, section 353 of this title, and section 354(a-2)(i)(A) of this title that are related to changes in the monthly compensation base.

### (2) Maximum daily benefit rate

On or before June 1, 1989, and on or before June 1 of each year thereafter, the Board shall compute in accordance with section 352(a)(3) of this title the maximum daily benefit rate which shall be applicable with respect to days of unemployment and days of sickness in registration periods beginning after June 30 of that year.

### (3) Notice in Federal Register and to employers

Not later than 10 days after each computation made under this subsection, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount so computed.

(June 25, 1938, ch. 680, §12, 52 Stat. 1107; June 20, 1939, ch. 227, §16, 53 Stat. 848; Oct. 10, 1940, ch. 842, §§23, 24, 54 Stat. 1099; July 31, 1946, ch. 709, §§319-323, 60 Stat. 739, 740; June 25, 1948, ch. 646, §§1, 32(b), 62 Stat. 878, 895, 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Oct. 28, 1949, ch. 782, title II, §202(29), title XI, §1106(a), 63 Stat. 956, 972; Aug. 12, 1955, ch. 869, §6, 69 Stat. 716; Sept. 6, 1958, Pub. L. 85-927, pt. II, §206, 72 Stat. 1783; June 11, 1960, Pub. L. 86-507, §1(37), 74 Stat. 202; Oct. 30, 1966, Pub. L. 89-700, title II, §206, 80 Stat. 1087; Feb. 15, 1968, Pub. L. 90-257, title II, §206, 82 Stat. 25; Oct. 15, 1970, Pub. L. 91-452, title II, §239, 84 Stat. 930; Oct. 16, 1974, Pub. L. 93-445, title IV, §405, 88 Stat. 1359; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Nov. 10, 1988, Pub. L. 100-647, title VII, §§7101(e), 7104(d), (e), 102 Stat. 3758, 3772.)

#### REFERENCES IN TEXT

The Railway Labor Act, referred to in subsections. (h) and (i), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 151 of this title and Tables.

The Railroad Retirement Act of 1974, referred to in subsection. (l), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of this title. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of this title, section 231t of this title, and Tables.

Section 205 of the Act of Congress approved June 24, 1937 (50 Stat. 307), referred to in subsection. (l), is section 205 of act June 24, 1937, ch. 382, 50 Stat. 307, which is not classified to the Code.

The civil-service laws, referred to in subsection. (l), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

#### CODIFICATION

In subsections. (h) and (n), "section 209 of title 18" substituted for reference to the Act of March 3, 1917, 39 Stat. 1106 (5 U.S.C. 66) on authority of (1) act June 25, 1948, ch. 645, 62 Stat. 683, section 1 of which enacted

Title 18, Crimes and Criminal Procedure, and which enacted in section 1914 of Title 18 the provisions formerly classified to section 66 of former Title 5; and (2) section 2 of Pub. L. 87-849, Oct. 23, 1962, 76 Stat. 1126, which repealed section 1914 of Title 18 and supplanted it with section 209, and which provided that exemptions from section 1914 shall be deemed exemptions from section 209. For further details, see Exemptions note set out under section 281 of Title 18.

In subsection. (l), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In penultimate sentence of subsection. (l), following the first word "Notwithstanding", the words "the provisions of the Act of June 22, 1906 (34 Stat. 449), or" have been omitted as obsolete. The provisions were enacted as section 3342 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425. Section 3342 of Title 5 was repealed by Pub. L. 89-762, §1(a), Nov. 5, 1966, 80 Stat. 1312.

#### AMENDMENTS

1988—Subsec. (d). Pub. L. 100-647, §7104(d), added cl. (iv).

Subsec. (n). Pub. L. 100-647, §7104(e), struck out "court" before "proceeding" in proviso of second par.

Subsec. (r). Pub. L. 100-647, §7101(e), added subsec. (r).

1974—Subsec. (l). Pub. L. 93-445 substituted "subdivisions (5), (6), and (9) of section 7(b) of the Railroad Retirement Act of 1974" for "section 10(b)(4) of the Railroad Retirement Act of 1937".

1970—Subsec. (c). Pub. L. 91-452 struck out subsec. (c) which related to immunity from prosecution of any person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1968—Subsec. (f). Pub. L. 90-257, §206(a), struck out references to maternity benefits and laws and made changes in punctuation and grammar necessitated thereby.

Subsec. (g). Pub. L. 90-257, §206(b), struck out references to maternity benefits and maternity compensation laws and made changes in punctuation and grammar necessitated thereby.

Subsec. (i). Pub. L. 90-257, §206(c), struck out provisions making reference to maternity sickness and to expected and actual date of birth of the child required to be included in report of maternity sickness.

Subsec. (n). Pub. L. 90-257, §206(d), struck out references to maternity benefits and to services of a doctor as to expected date of birth of a female employee's child, or the birth of such a child.

1966—Subsec. (d). Pub. L. 89-700 authorized Board to furnish such information to any person or organization upon payment of the cost incurred by reason thereof, and requiring amounts so paid to Board to be credited to railroad unemployment insurance administration fund.

Subsec. (g). Pub. L. 89-700 substituted "section 353 of this title" for "section 353(a) of this title".

1960—Subsec. (a). Pub. L. 86-507 inserted "or by certified mail" after "registered mail".

1958—Subsec. (l). Pub. L. 85-927 struck out "except that the Board may fix the salary of a director of unemployment insurance at \$10,000 per annum" before first proviso in second paragraph, and substituted "Classification Act of 1949" for "Classification Act of 1923", immediately preceding such first proviso, which substitution had already been executed in accordance with act Oct. 28, 1949.

1955—Subsec. (l). Act Aug. 12, 1955, specifically provided for employees of Railroad Retirement Board to be in and under competitive civil service.

1949—Subsec. (l). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923" in two places.

1946—Subsec. (b). Act July 31, 1946, §319, inserted provisions relating to the District Court of the United States for the Northern District of Illinois.

Subsec. (f). Act July 31, 1946, §320, inserted references to sickness or maternity laws and benefits.

Subsec. (g). Act July 31, 1946, §321, inserted references to sickness or maternity laws and benefits and struck out phrase limiting second paragraph to eligibility with respect to unemployment after June 30, 1939.

Subsec. (i). Act July 31, 1946, §322, added third par., providing for form, execution and filing of statements of sickness.

Subsecs. (n) to (q). Act July 31, 1946, §323, added subsecs. (n) to (q).

1940—Subsec. (l). Act Oct. 10, 1940, §22, inserted provisions relating to acquisition of competitive classified civil-service status by a person in the employ of Board on June 30, 1939, and June 30, 1940.

Act Oct. 10, 1940, §23, inserted provisos relating to personnel for registering unemployed employees.

1939—Subsec. (g). Act June 20, 1939, inserted “, with respect to unemployment after June 30, 1939” after “employee is eligible” and struck out “June 30, 1939” after “therefor) after”.

#### CHANGE OF NAME

Subsec. (b) of this section was amended by act June 25, 1948, §32(b), eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted “United States District Court for the District of Columbia” for “District Court of the United States for the District of Columbia”.

“United States District Court for the Northern District of Illinois” substituted for “District Court of the United States for the Northern District of Illinois” in view of act June 25, 1948, which states that “There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district”, and that “Illinois is divided into three judicial districts to be known as the Northern, Southern, and Eastern Districts of Illinois.” See sections 88 and 132 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 7104(d), (e) of Pub. L. 100-647, effective Jan. 1, 1990, see section 7104(f) of Pub. L. 100-647, set out as a note under section 355 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provisions note under section 6001 of Title 18, Crimes and Criminal Procedure.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-257 effective July 1, 1968, see section 208 of Pub. L. 90-257, set out as a note under section 352 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-927 effective Sept. 6, 1958, except as otherwise indicated, see section 207(c) of Pub. L. 85-927, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1946 AMENDMENT

Amendment by act July 31, 1946, effective July 31, 1946, see section 401 of act July 31, 1946.

#### EFFECTIVE DATE OF 1940 AMENDMENT

For effective date of amendment by act Oct. 10, 1940, see section 1 of act Oct. 10, 1940, set out as a note under section 351 of this title.

#### REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

#### TRANSFER OF FUNCTIONS

“Director of the Office of Personnel Management” substituted for “Civil Service Commission” in subsec. (l), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

#### TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

Pub. L. 98-76, title V, §504, Aug. 12, 1983, 97 Stat. 441, provided that:

“(a) Representatives of railroad labor and railroad management shall jointly establish (and jointly appoint the members of) a committee to be known as the ‘Railroad Unemployment Compensation Committee’ (hereinafter in this section referred to as the ‘Committee’).

“(b) The Committee shall consist of five members—

“(1) two of whom shall be representatives of railroad labor,

“(2) two of whom shall be representatives of railroad management, and

“(3) one of whom shall be an individual who shall not be in the employment of or pecuniarily or otherwise interested in any employer (as defined in section 1 of the Railroad Retirement Act of 1974 [45 U.S.C. 231]) or any organization of employees (as defined in section 1 of such Act).

“(c) The Committee shall review all aspects of the unemployment and sickness insurance systems provided by the Railroad Unemployment Insurance Act [this chapter] including (but not limited to) a review of—

“(1) benefit levels,

“(2) experience rating,

“(3) debt repayment and interest on debt,

“(4) waiting period for unemployment benefits and qualifying requirements, and

“(5) alternatives to the railroad unemployment insurance system such as covering railroad employees under the Federal-State unemployment compensation system.

“(d) Not later than April 1, 1984, the Committee shall submit a report to the Congress containing recommendations—

“(1) with respect to the review conducted under subsection (c), and

“(2) with respect to the repayment of funds which the railroad unemployment insurance system has borrowed from the Railroad Retirement Account.

Any recommendation submitted under paragraph (2) shall contain adjustments in contributions and benefits which will enable the railroad unemployment compensation system to repay all loans from the Railroad Retirement Account before December 31, 2000.

“(e) The Railroad Retirement Board (and any other department, agency, or instrumentality of the Federal Government) is authorized to cooperate with, and assist, the Committee (at its request) in carrying out its duties by furnishing services, information, data, or other material which the Committee determines will be helpful in carrying out its duties.”

#### FEDERAL RULES OF CIVIL PROCEDURE

Federal Rules of Civil Procedure as governing the procedure in all suits of a civil nature whether cognizable as cases at law or in equity, see rule 1, Title 28, Appendix, Judiciary and Judicial Procedure.

One form of action, see rule 2.

#### CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Perjury, see sections 1621 and 1622 of Title 18.

Third party tort liability to United States for hospital, and medical care, see section 2651 et seq. of Title 42, The Public Health and Welfare.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 231f, 351, 352, 360, 361, 363, 918, 1011 of this title.

### § 363. Exclusiveness of provisions; transfers from State unemployment compensation accounts to railroad unemployment insurance account

#### (a) Omitted

#### (b) Effect on State unemployment compensation laws

By enactment of this chapter the Congress makes exclusive provision for the payment of unemployment benefits for unemployment occurring after June 30, 1939, and for the payment of sickness benefits for sickness periods after June 30, 1947, based upon employment (as defined in this chapter). No employee shall have or assert any right to unemployment benefits under an unemployment compensation law of any State with respect to unemployment occurring after June 30, 1939, or to sickness benefits under a sickness law of any State with respect to sickness periods occurring after June 30, 1947, based upon employment (as defined in this chapter). The Congress finds and declares that by virtue of the enactment of this chapter, the application of State unemployment compensation laws after June 30, 1939 or of State sickness laws after June 30, 1947, to such employment, except pursuant to section 362(g) of this title, would constitute an undue burden upon, and an undue interference with the effective regulation of, interstate commerce. In furtherance of such determination, after June 30, 1939, the term “person” as used in section 1106 of title 42 shall not be construed to include any employer (as defined in this chapter) or any person in its employ: *Provided*, That no provision of this chapter shall be construed to affect the payment of unemployment benefits with respect to any period prior to July 1, 1939, under an unemployment compensation law of any State based upon employment performed prior to July 1, 1939, and prior to such date employment as defined in this

chapter shall not constitute “Service with respect to which unemployment compensation is payable under an [or “service under any”] unemployment compensation system [or “plan”] established by an Act of Congress” [or “a law of the United States”] or “employment in interstate commerce, of an individual who is covered by an unemployment compensation system established directly by an Act of Congress,” or any term of similar import, used in any unemployment compensation law of any State.

#### (c) Determination of “preliminary amount” for States

The Social Security Board is directed to determine for each State, after agreement with the Railroad Retirement Board, and after consultation with such State; the total (hereinafter referred to as the “preliminary amount”) of (i) the amount remaining as the balances of reserve accounts of employers as of June 30, 1939, if the unemployment compensation law of such State provides for a type of fund known as “Reserve Accounts,” plus (ii) if the unemployment compensation law of such State provides for a type of fund known as “Pooled Fund” or “Pooled Account,” that proportion of the balance of such fund or account of such State as of June 30, 1939, as the amount of taxes or contributions collected from employers and their employees prior to July 1, 1939, pursuant to its unemployment compensation law and credited to such fund or account bears to all such taxes or contributions theretofore collected from all persons subject to its unemployment compensation law and credited to such fund or account; and the additional amounts (hereinafter referred to as the “liquidating amount”) of taxes or contributions collected from employers and their employees from July 1, 1939 to December 31, 1939, pursuant to its unemployment compensation law.

#### (d) Withholding amounts from certification to States; transfers to railroad unemployment compensation account

The Social Security Board shall withhold from certification to the Secretary of the Treasury for payment the amounts determined by it pursuant to section 502(a) of title 42 to be necessary for the proper administration of each State’s unemployment-compensation law, until an amount equal to its “preliminary amount” plus interest from July 1, 1939, at 2½ per centum per annum on such portion thereof as has not been used as the measure for withholding certification for payment, has been so withheld from certification pursuant to this paragraph: *Provided, however*, That if a State shall, prior to whichever is the later of (i) thirty days after the close of the first regular session of its legislature which begins after the approval of this chapter, and (ii) July 1, 1939, authorize and direct the Secretary of the Treasury to transfer from its account in the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund an amount equal to its “preliminary amount”, no amount shall be withheld from certification for payment to such State pursuant to this paragraph.

The Social Security Board shall withhold from certification to the Secretary of the Treasury for payment the amounts determined by it pur-